

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SAI MALENA JIMENEZ-FOGARTY,

CIVIL ACTION

Plaintiff,

-against-

Case No.: 1:24-CV-08705-JLR

THOMAS FOGARTY, LISA ZEIDERMAN, ASHLEY
KERSTING, NICOLE DIGIACOMO, JUDGE SHERRI
EISENPRESS, JUDGE THOMAS ZUGIBE, LAURA
MARINO,

Defendants.
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**NOTICE OF MOTION PURSUANT TO FED. R. CIV. PRO. 12(b)(1) AND FED. R. CIV.
PRO. 12(b)(6) BY THE DEFENDANTS LISA ZEIDERMAN AND ASHLEY KERSTING**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Brett A. Scher, dated December 9, 2024, the exhibits attached thereto, and the Memorandum of Law in Support of Zeiderman Defendants' Motion to Dismiss, dated December 9, 2024, the undersigned will move before the Honorable Jennifer L. Rochon, United States District Judge on a date to be set by the Court at Courtroom 20B of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007 for an Order dismissing this case with prejudice, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Individual Rules of Hon. Jennifer L. Rochon, opposing papers if any, must be served within four weeks of the service of this motion.

**NOTICE TO PRO SE LITIGANT WHO OPPOSES A RULE 12 MOTION SUPPORTED
BY MATTERS OUTSIDE THE PLEADINGS**

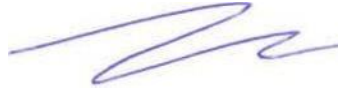
The defendant in this case has moved to dismiss or for judgment on the pleadings under Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the court to decide this case without a trial, based on these written materials. You are warned that the court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, **THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME** by filing sworn affidavits as required by Rule 56(c) and/or other documents. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached. In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying on the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits and/or documents contradicting the facts asserted by the defendant, the court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Dated: Woodbury, New York
December 9, 2024

KAUFMAN DOLOWICH, LLP



By: _____

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